

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

**IN RE: AMENDMENT TO COURT OF CHANCERY RULES, SECTION II,
 RULE 4**

This 15th day of December 2014, IT IS HEREBY ORDERED that Court of Chancery Rules, Section II, Rule 4 shall be amended effective January 1st, 2015.

Rule 4 shall be amended as follows:

Rule 4. Process.

(a) Summons; issuance.— Upon commencement of an action the plaintiff may present a summons to the Register in Chancery for signature and seal. If the summons is in proper form, the Register in Chancery shall sign, seal and issue it to the plaintiff for service on the defendant. A summons, or a copy of the summons if addressed to multiple defendants, shall be issued for each defendant to be served.

(b) Same; form. —The summons shall be signed by the Register in Chancery, be under the seal of the Court, contain the name of the Court and the names of the parties, state the name of the official or other person to whom it is directed, the name and address of the plaintiff's attorney, if any, otherwise the plaintiff's address, and the time within which these Rules require the defendant to appear and defend, and shall notify the defendant that in case of the defendant's failure to do so judgment by default will be rendered against the defendant for the relief demanded in the complaint.

(c) By whom served. —Service of summons may be effected by any person who is not a party and who is at least 18 years of age. At the request of the plaintiff, the Court may direct that service be effected by the sheriff, the sheriff's deputy or by another person specially appointed by the Court for that purpose. All persons, other than the sheriff or his deputy, wishing to serve process in person for Court of Chancery matters must be registered with the Court in accordance with the procedures set out in the Court's operating procedures.

(d) Summons; personal service.— The summons and complaint shall be served together. The Register in Chancery shall furnish the person making service with such copies as are necessary. Service shall be made as follows:

(1) Upon an individual other than an infant or an incompetent person by delivering a copy of the summons and of the complaint to the individual personally, or by leaving copies thereof at the individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or by delivering a copy of the summons and of the complaint to an agent authorized by appointment or by law to receive service of process.

(2) Upon an infant by serving the summons in the manner prescribed by law for service of summons upon any such defendant.

(3) Upon an incompetent person by serving the summons in the manner prescribed by law for service of summons upon any such defendant.

(4) Upon a Delaware corporation or a foreign corporation in the manner provided by statute.

(5), (6) Repealed.

(7) An order directing another or an additional mode of service of a summons in a special case may be made by the Court.

(da) Service by publication. —No order shall be entered under 10 Del. C. ~~§~~ 365 unless a verified complaint or affidavit accompanying the application for such an order contains an allegation that any defendant is a nonresident of the State and contains a further allegation as to the last known address of such defendant or an allegation that the address of the defendant outside Delaware is unknown and cannot, with due diligence, be ascertained. In addition to the

publication of the order for the appearance of a defendant prescribed by 10 Del. C. ~~§~~ 365, the order shall provide for sending such defendant by registered or certified mail a copy of such order and a copy of the complaint at the defendant's address outside of Delaware where the verified complaint or affidavit contains such information. The Court may direct the giving of other notice to such defendant in such manner as may be deemed appropriate under the circumstances.

(db) Service by publication and seizure. —

(1) No order shall be entered under 10 Del. C. ~~§~~ 366 unless it appears in the complaint that the defendant or any one or more of the defendants is a nonresident of the State of Delaware and the application therefor is accompanied by the affidavit of a plaintiff or other credible person stating:

(a) As to each nonresident defendant whose appearance is sought to be compelled, the defendant's last known address or a statement that such address is unknown and cannot with due diligence be ascertained.

(b) The following information as to the property of each such defendant sought to be seized:

(i) A reasonable description thereof.

(ii) The estimated amount and value thereof.

(iii) The nature of the defendant's title or interest therein; and if such title or interest be equitable in nature, the name of the holder of the legal title.

(iv) The source of affiant's information as to any of the items as to which the affidavit is made on information and belief.

(v) The reason for the omission of any of the required statements.

(2) Within 3 business days after the filing of such bond or bonds as may be required or within such other time as the Court may fix, the Register shall, in addition to making the required publication, send by registered or certified mail to each defendant whose appearance is sought to be compelled a certified copy of the order and a copy of the pleading asserting the claim.

(3) After the filing of such bond or bonds as may be required by the order, but not later than 10 days after the date of the order of seizure, the sequestrator shall serve a certified copy of the order upon the person, persons or corporation having possession or custody of the property or control of its transfer, and shall seize the property. The sequestrator shall seize property which is, or appears, not to be susceptible of physical seizure within the State by serving a director in writing that the person, persons or corporation having possession or custody of the property or control of its transfer, shall:

(a) Retain the property and recognize no transfer thereof until further notice from the sequestrator or order of the Court;

(b) Forthwith make a notation upon any records pertaining to the property that such property is held pursuant to the order of the Court; and

(c) Within 10 days after the date of such service, deliver a certificate under oath to the sequestrator, specifying (i) Such defendant's property, if any, of which it has possession, custody or control or control of its transfer; (ii) whether the title or interest of each such defendant is legal or beneficial; and (iii) if legal, the name and address of the holder of any equitable title or interest therein, if known, and, if beneficial, the name and address of the holder of the legal title thereto, if known.

(4) Within 20 days after seizure, unless otherwise specially ordered, the sequestrator shall make a return to the Court, therein setting out all proceedings hereunder to the date of said return, including the date and hour of service and seizure pursuant to subparagraph (3) hereof.

(5) The Court may in its discretion and subject to statutory requirements dispense with or modify compliance with the requirements of any part of this rule in any cause upon application to it stating the reasons therefor.

(dc) Service pursuant to 10 Del. C. § 3114. —

(1)(a) In every action where service of process is sought pursuant to 10 Del. C. § 3114 against a nonresident of Delaware by reason of such nonresident's service as officer, director, trustee or member of the governing body of a corporation organized under the laws of this State, the party seeking such service of process shall at the time when such service is applied for file with the Register in Chancery a statement signed by the attorney for the applicant or, if the applicant is not represented by counsel, by the applicant, containing the following information:

(i) The name and principal business address of the corporation upon whose governing body the nonresident serves or has served, which address shall be the principal business address set forth on the most recent annual report filed by the corporation with the Secretary of State of Delaware, unless the statement shall also contain the basis for the applicant's conclusion that the business address set forth on the most recent annual report is not presently the principal business address of the corporation.

(ii) The name and address, including county, of the registered agent in Delaware of said corporation, or a statement that the corporation has no present registered agent.

(iii) The last residence address known to the applicant of each nonresident as to whom service of process is sought, which address shall be the residence address of such

nonresident defendant set forth on the most recent annual report filed by the corporation with the Secretary of State of Delaware, unless the statement shall also contain the basis for the applicant's conclusion that the residence address set forth in the most recent annual report filed by the corporation is not presently the residence address of such nonresident.

(b) If any information called for by subparagraph (1)(a) is not known to the applicant, the statement shall so state and shall also state affirmatively that the applicant has made diligent efforts to ascertain such information.

(2)(a) If the summons presented by the plaintiff applying for service pursuant to 10 Del. C. § 3114 is in proper form, the Register in Chancery shall sign, seal and issue it to the plaintiff for service upon the registered agent of the corporation upon whose governing board the nonresident serves or has served, or, if the corporation has no registered agent, upon the Secretary of State. The plaintiff shall file a return of service forthwith after effectuation of said service.

~~service.~~

(b) The summons issued pursuant to subparagraph (2)(a) hereof shall, in addition to the statements called for under other provisions of law, state that it is issued pursuant to 10 Del. C. ~~+~~§ 3114 and a copy of that statute shall be appended thereto. The summons shall direct that an answer or other responsive pleading be filed in accordance with the time provisions of the statute.

(3) Within 7 days after service under subparagraph (2)(b) hereof is effected, the Register shall send by registered mail to each nonresident upon whom service is being effected, copies of all of the papers served upon the corporation under subparagraph (2)(a) hereof at: (a) The principal place of business of the corporation and (b) the residence address of such nonresident. The Register shall note on the docket of the cause the date upon which such mailings take place.

IN THE COURT OF CHANCERY OF THE STATE OF
DELAWARE IN AND FOR NEW CASTLE COUNTY

Plaintiff,

CIVIL ACTION NO.

v.

SUMMONS PURSUANT

Defendant.

TO 10 DEL. C. § 3114

THE STATE OF DELAWARE

TO THE SHERIFF OF NEW CASTLE COUNTY:

YOU ARE COMMANDED:

To Summon the above named individual defendant () by service pursuant to 10 Del. C. § 3114 upon the defendant(s)' designated agent for service of process in Delaware,, being the registered agent for, a Delaware corporation, so that within the time required by law, such defendant () shall serve upon, plaintiff's attorney whose address is and answer to the complaint.

To serve upon defendant () a copy hereof, of the complaint, and of a statement of plaintiff filed pursuant to Chancery Court Rule 4(dc)(1).

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Dated

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Register in Chancery

(e), (f) Omitted.

| (g) Return. —The summons provided for in paragraph (a) hereof shall be returnable 20 days after the issuance thereof unless otherwise specially ordered. The person serving the process shall make return thereof to the Court promptly, after service and in any event on the return day thereof. Process which cannot be served before the return day thereof shall be returned on the return day and such return shall set forth the reasons why service could not be had. If service is made by a person other than by an officer or the officer's deputy such person's return shall be verified. Failure to make a return or proof of service shall not affect the validity of service.

| (h) Amendment. —At any time in its discretion and upon such terms as it deems just, the Court may allow any process or return of proof of service to be amended unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process issued.